S.B. CRIMINAL MISC. II BAIL APPLICATION NO.5719/2006
(Shailendra & Ors. Vs. State)

Date of order : 05.01.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Mukesh Rajpurohit, for the applicants.
Mr. JPS Choudhary, Public Prosecutor.

I have heard learned counsel for the applicants as well as learned Public Prosecutor for the State.

The first bail application moved earlier under Section 438 Cr.P.C. was dismissed by this Court vide order dated 9.3.2006 as per the contention made by the learned Public Prosecutor that in the investigation, the police has not found any case for offence under Sections 379 and 452 I.P.C. and other offences are bailable. Therefore, it was contended by learned Public Prosecutor that no order is required to be made in this case.

It is contended by learned counsel for the applicants that though vide earlier order, it was observed that if in further investigation, the prosecution comes to the conclusion that any non bailable offence is made out, the petitioners shall be given notice. However, only verbal information has been given to them.

It is contended by learned counsel for the applicants that other co-accused namely Sunil, Rakesh, Amit and Rajnish all sons of Khemchand have already been enlarged on bail by Coordinate Bench of this Court vide order dated 21.12.2006 passed in SB Criminal Misc. Bail Application No.5898/2006. Further, it is contended that the applicants are apprehending their arrest because they are verbally informed by the Investigating Officer that non-bailable offence is made out against them. Learned counsel for the applicants also contends that the case of present applicants is not distinguishable from that of other co-accused, who have already been enlarged on bail vide order dated 21.12.2006.

Learned Public Prosecutor does not dispute this position.

Taking into consideration the facts and circumstances of the case and without expressing any opinion on the merit of the case, I think it just and proper to grant anticipatory bail to the applicants.

Accordingly, the second bail application filed under Section 438 Cr.P.C. is allowed and it is directed that in the event of arrest of applicants namely (1) Shailendra S/o Khemchand, (2) Vipin S/o Khemchand and (3) Ashok S/o Khemchand by I.O./S.H.O. in connection with CR No.48/2006 P.S. Sadar Kotwali,

Jodhpur, they shall be released on bail provided each of them executes a personal bond in the sum of Rs.20,000/- and furnishes two sound and solvent sureties in the sum of Rs.10,000/- each to the satisfaction of the concerned investigating Officer on the following conditions :-

1. That they shall make themselves available for interrogation by a police officer as and when required.

2. That they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

3. That they shall not leave India without the prior permission of the Court.

(GOPAL KRISHAN VYAS), J.

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